

ORIGINAL

Before the
Federal Communications Commission DOCKET FILE COPY ORIGINAL
Washington, D.C. 20554

In the Matter of)	
)	
Local Exchange Carriers')	
Payphone Functions and Features)	CC Docket 97-140
)	
)	
The Bell Atlantic Telephone Companies)	
Revisions to Tariff F.C.C. No. 1)	Transmittal Nos. 962 and 966
)	
GTE System Telephone Companies)	
Revisions to Tariff F.C.C. No. 1)	Transmittal No. 206
)	
GTE Telephone Operating Companies)	
Revisions to Tariff F.C.C. No. 1)	Transmittal No. 1095

DIRECT CASE OF BELL ATLANTIC

Bell Atlantic respectfully submits this Direct Case in defense of its payphone tariff, Transmittal Nos. 962 and 966, responding to the two issues which the Commission recently designated for investigation.¹

Issue A: Whether Bell Atlantic's proposed overhead loading on its direct costs for unbundled payphone features is unreasonable and excessive under the new services test.

The rate elements for the individual payphone features at issue here -- many of which reflect a reduction from the previous tariffed rates for these same features -- cannot be examined in isolation. As Bell Atlantic showed in its reply to the petition to suspend the tariff,

¹ ***Order Designating Issues for Investigation***, DA 97-1764 (rel. Aug. 19, 1997) ("Order").

047

the overall rates for Bell Atlantic's payphone tariff are just and reasonable, taking into account both the basic payphone service rate and the rates for the optional features.²

As shown in Bell Atlantic's Reply, the five optional payphone features at issue here³ can be purchased and used only with a state-tariffed payphone access line. As a result, the basic line and the individual features on that line together constitute a single integrated service that is fundamentally different from other services tariffed with this Commission. This is because part of the integrated service is tariffed at the state level, while part is tariffed both in the states and with this Commission. Therefore, the Commission should review the reasonableness of the rate of the payphone service as a whole, including both the state-tariffed line and federally-tariffed features. As shown in Bell Atlantic's Reply, when the total cost of the features in combination with the essential line service is compared to the rates for this service, including EUCL, the weighted average loading across all seven state jurisdictions is only 40%.

In contrast, evaluating the overhead loading for just the portion of this integrated service that is tariffed at the federal level would force Bell Atlantic to offer the integrated service at below-cost rates in most jurisdictions. As shown in Attachment 1 to Bell Atlantic's Reply, in six of the seven jurisdictions covered by the tariff,⁴ the state tariff rates for the payphone access

² *See* Reply of Bell Atlantic to APCC Petition to Suspend and Investigate Bell Atlantic Transmittal No. 962 (filed June 2, 1997) ("Bell Atlantic's Reply"). The Commission did not address Bell Atlantic's Reply in its Order. A copy of that filing is attached and incorporated by reference.

³ The five features are Line Side Answer Supervision, Outgoing Call Blocking, Inward Call Blocking, Outward Screening, and Incoming and Outgoing Screening.

⁴ The tariff that is subject to this investigation was filed prior to the recently-completed merger of Bell Atlantic and NYNEX. As a result, the rates applicable to the former NYNEX jurisdictions are not at issue.

lines used to operate smart payphones are below the direct cost for these lines. It is only with the addition of the feature rates and the End User Common Line (“EUCL”) charge that the rate for payphone service recovers the direct cost of the service in those jurisdictions.

It is also unreasonable for the Commission to apply its traditional ratemaking principles to the this filing. As a matter of public policy, states historically have set the price for optional features above their costs, in order to retain low rates for the underlying payphone line services. Although the Commission has not adopted that principle, it should embrace it in the unusual case presented here, where the rate for the line remains under a state tariff. Otherwise, the Commission would force Bell Atlantic to lose money on the entire service.

The tariffs for all of Bell Atlantic’s features are also consistent with the express mandate of Section 276 of the 1996 Act.⁵ Section 276 prohibits any Bell Operating Company (BOCs) from discriminating in favor of its payphone service or subsidizing its payphone service from its exchange or exchange access operations. The rates for these features recover their costs so that no subsidy exists. If the optional features were priced so that the overall payphone service were not compensatory, the statutory requirements would not be met.

Issue B: Whether Bell Atlantic’s determination of rates is consistent with the “new services test”.

The Commission has held that “the new services test requires examination of the carrier’s direct costs for reasonableness, compels carriers to file direct cost factors in support of each rate element, and requires that carriers price above direct cost.”⁶ Overhead loadings need

⁵ 47 U.S.C. § 276.

⁶ *Amendments of Part 69 of the Commission’s Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Memorandum Opinion and Order on Third Further Reconsideration*, 10 FCC Rcd 1570, ¶ 5 (1994).

not be uniform under the new services test. Rather, “[t]o achieve flexible pricing, a [local exchange carrier is] allowed to distribute overhead loading costs in a non-uniform manner among similar services if the LEC adequately justifie[s] those loadings.”⁷

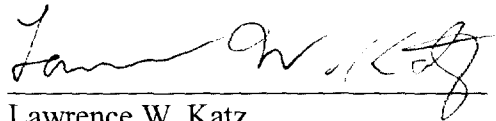
The rates under investigation meet this test. The loadings for the optional features, while not uniform, allow the entire service to be compensatory, and most of the individual features are priced at a uniform rate to simplify the rate structure for the public. Moreover, nearly all of the rates represent reductions below the existing state-tariffed rates, and none was increased. Therefore, the instant tariff benefits customers by providing rate reductions while allowing Bell Atlantic to provide the overall service using a simplified rate structure and on a compensatory basis.

⁷ *NYNEX Telephone Companies Revisions to Tariff F.C.C. No. 1*, 7 FCC Rcd 7940, ¶ 5 (1992).

Conclusion

Based on the reasons set forth above and its Transmittal and Reply, Bell Atlantic has demonstrated that the instant tariff is just and reasonable and that it meets the Commission's new services test.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lawrence W. Katz", written over a horizontal line.

Lawrence W. Katz
Cecelia T. Roudiez

Michael E. Glover
Of Counsel

1320 North Court House Road
8th Floor
Arlington, Virginia 22201
(703) 974-2927

Attorneys for the Bell Atlantic
Telephone Companies

September 3, 1997

COPY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
The Bell Atlantic Telephone Companies) Transmittal No. 962
Revisions to Tariff F.C.C. No. 1)

RECEIVED

JUN - 2 1997

REPLY OF BELL ATLANTIC¹

APCC fails to offer any salient objections to Bell Atlantic's ^{Federal Communications Commission} ~~interstate payphone~~ ^{service} tariff.² The one point raised in its petition, that the rates for certain tariffed elements are excessive, ignores other factors that show that the rates are just and reasonable. The Commission should deny APCC's petition.

The sole evidence that APCC presents to support its request for an investigation is a comparison of the direct costs and the rates of certain individual payphone elements. APCC fails to point out, however, that the price of the entire payphone service, which consists of state-tariffed coin lines and the federally-tariffed elements in question, is just and reasonable. Although the filed rates taken in isolation are at reasonable levels, contrary to APCC's claims, the Commission's examination of the tariff should not be conducted in isolation. Instead, the Commission must examine the rates for those elements in the context of the overall coin service.

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² Petition of the American Public Communications Council to Suspend and Investigate ("APCC").

As shown below, the rates for the overall payphone service, taking into account both the coin line and the elements filed with the instant transmittal, are reasonable and the overhead loadings well within the levels of comparable Bell Atlantic services.

This tariff filing was made pursuant to Commission requirements to tariff at the interstate level unbundled payphone elements and features that are currently available under state tariffs.³ These features, however, can be used only with the state-tariffed coin lines. States often establish the rates for those coin lines with reduced margins as a matter of public policy, while allowing higher margins for screening, blocking, and other optional features.⁴ In setting the prices it would file at the interstate level, Bell Atlantic selected the lowest rate for any element in any of its seven local exchange service jurisdictions, and then applied that rate to each of the elements. In this way, Bell Atlantic was able to keep the overall payphone service compensatory while avoiding arbitrage between the interstate and intrastate rates.⁵

Moreover, the rates are reasonable as a matter of federal policy. When the rates for the elements that are being filed here are combined with the comparable state coin line rates, and the sum compared to the costs, the overall payphone service is priced reasonably, as shown

³ ***Implementation of the Payphone Reclassification and Compensation Provisions of the Telecommunications Act of 1996***, CC Docket No. 96-128, ***Report and Order***, FCC 96-388 (rel. Sep. 20, 1996); ***Order on Reconsideration***, FCC 96-439 (rel. Nov. 8, 1996); ***Order***, DA 97-678 (Com. Car. Bur., rel. Apr. 4, 1997).

⁴ Because of the unique statutory requirements relating to payphones, this service is an exception to the general Open Network Architecture prohibition on mixing and matching state- and federally-tariffed services. *See* 47 U.S.C. § 276.

⁵ Bell Atlantic has filed tariff revisions to reduce its state rates for these elements to conform to the instant interstate tariff.

in the Attachment.⁶ As shown, in the seven local jurisdictions in which Bell Atlantic provides payphone service, the overall overhead loadings in some states are as low as 17%, and the weighted average less than 40%. These are overhead loading levels that are at or below the overhead loading levels for other comparable Bell Atlantic services. It is those levels, not the isolated loading levels that APCC cites,⁷ that the Commission should use when determining the reasonableness of Bell Atlantic's tariff.

Finally, the Commission should ignore as irrelevant to this filing APCC's comment about the "importance" of call screening services "that transmit 'discrete' identifying digits to carriers to track compensable calls from payphones."⁸ As Bell Atlantic's tariff filing made clear, the particular call screening at issue here only provides special indicators to notify carriers that collect or third party billed calls should not be completed without verification and precautions.⁹ The call screening that APCC refers to is not affected by this filing.

⁶ The Attachment provides a cost and rate comparison for the Station Controlled Coin Line (labeled "SCCL" on the charts), for the separate elements, and for the total payphone service in each jurisdiction.

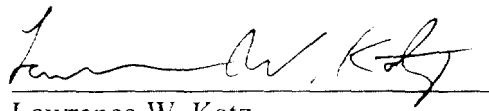
⁷ APCC at 6

⁸ *Id.* at 5.

⁹ Transmittal No. 962, Description and Justification at 5-6 (filed May 19, 1997).

Accordingly, the Commission should deny APCC's petition and allow Bell Atlantic's tariff to become effective without suspension or investigation.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Lawrence W. Katz", is written over a horizontal line.

Lawrence W. Katz

Edward D. Young, III
Michael E. Glover
Of Counsel

1320 North Court House Road
8th Floor
Arlington, Virginia 22201
(703) 974-4862

Attorney for the Bell Atlantic
Telephone Companies

June 2, 1997

ATTACHMENT

MARYLAND

SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL					
Rate Group A	\$13.34	\$5.72	\$19.06	\$16.79	
Rate Group B	\$15.76	\$5.72	\$21.48	\$16.79	
Screening					
Outward Screening	\$1.50		\$1.50	\$0.00043	
Line Side Answer Supervision	\$1.50		\$1.50	\$0.05542	
Total (Line + Features)					
Rate Group A	16.34	5.72	22.06	16.84585	31%
Rate Group B	18.76	5.72	24.48	16.84585	45%

VIRGINIA

SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL					
Rate Class 1	\$13.00	\$5.92	\$18.92	\$15.76	
Rate class 2	\$12.75	\$5.92	\$18.67	\$15.76	
Rate Class 3	\$12.50	\$5.92	\$18.42	\$15.76	
Rate Class 4	\$12.25	\$5.92	\$18.17	\$15.76	
Rate Class 5	\$12.00	\$5.92	\$17.92	\$15.76	
Rate Class 6	\$11.75	\$5.92	\$17.67	\$15.76	
Rate Class 7	\$11.50	\$5.92	\$17.42	\$15.76	
Rate Class 8	\$11.00	\$5.92	\$16.92	\$15.76	
Screening					
Outward Screening	\$1.50		\$1.50	\$0.00043	
Line Side Answer Supervision					
	\$1.50		\$1.50	\$0.05542	
Total (Line + Features)					
Rate Class 1	\$16.00	\$5.92	\$21.92	\$15.82	39%
Rate class 2	\$15.75	\$5.92	\$21.67	\$15.82	37%
Rate Class 3	\$15.50	\$5.92	\$21.42	\$15.82	35%
Rate Class 4	\$15.25	\$5.92	\$21.17	\$15.82	34%
Rate Class 5	\$15.00	\$5.92	\$20.92	\$15.82	32%
Rate Class 6	\$14.75	\$5.92	\$20.67	\$15.82	31%
Rate Class 7	\$14.50	\$5.92	\$20.42	\$15.82	29%
Rate Class 8	\$14.00	\$5.92	\$19.92	\$15.82	26%

WASHINGTON

SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL	\$12.34	\$2.95	\$15.29	\$11.97	
Screening					
Outward Screening	\$1.50		\$1.50	\$0.00043	
Line Side Answer Supervision	\$1.50		\$1.50	\$0.05542	
Total (Line + Features)	\$15.34	\$2.95	\$18.29	\$12.03	52%

WEST VIRGINIA

SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL	\$24.50	\$6.00	\$30.50	\$25.34	
Screening					
Outward Screening	\$1.50		\$1.50	\$0.00043	
Line Side Answer Supervision	\$1.50		\$1.50	\$0.05542	
Total (Line + Features)	\$27.50	\$6.00	\$33.50	\$25.40	32%

DELAWARE

SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL	\$22.28	\$5.91	\$28.19	\$14.31	
Blocking					
Call Type Blocking					
Inward Blocking	\$1.50		\$1.50	\$0.01	
Outward Blocking(OB)	\$1.50		\$1.50	\$0.02	
Screening					
Inward/ Outward Screening	\$3.00		\$3.00	\$0.00043	
Line Side Answer Supervision	\$1.50		\$1.50	\$0.05542	
Total (Line + Features excl. OB)	\$28.28	\$5.91	\$34.19	\$14.38	138%

PENNSYLVANIA

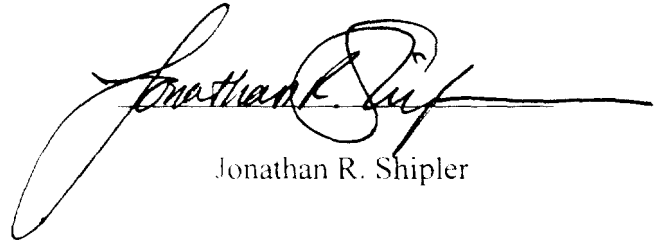
SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL					
DC1	\$ 8.13	\$5.60	\$13.73	\$ 10.31	
DC2	\$ 10.63	\$5.60	\$16.23	\$ 11.25	
DC3	\$ 13.13	\$5.60	\$18.73	\$ 15.18	
DC4	\$ 15.63	\$5.60	\$21.23	\$ 19.78	
Blocking					
Inward Blocking	\$1.50		\$1.50	\$0.00043	
Outward Blocking(OB)	\$1.50		\$1.50	\$0.00043	
Screening					
Inward/Outward Screening	\$3.00		\$3.00	\$0.00043	
Line Side Answer Supervision	\$1.50		\$1.50	\$0.05542	
Total (Line + Features excl. OB)					
DC1	\$ 14.13	\$5.60	\$ 19.73	\$ 10.37	90%
DC2	\$ 16.63	\$5.60	\$ 22.23	\$ 11.31	97%
DC3	\$ 19.13	\$5.60	\$ 24.73	\$ 15.24	62%
DC4	\$ 21.63	\$5.60	\$ 27.23	\$ 19.84	37%

NEW JERSEY

SERVICE	RATE	EUCL	TOTAL RATE	COST	% LOADING
SCCL	\$17.50	\$5.02	\$22.52	\$22.32	
Screening					
Outward Screening	\$1.50		\$1.50	\$0.00043	
Line Side Answer Supervision	\$1.50		\$1.50	\$0.05542	
Limited Interlata Dialing Service	\$5.00		\$5.00	\$3.61774	
Total (Line + Features)	\$25.50	\$5.02	\$30.52	\$25.99	17%

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 1997, a copy of the foregoing "Reply of Bell Atlantic" was served by first class U.S. mail to the parties on the attached list.

A handwritten signature in black ink, appearing to read "Jonathan R. Shipler", with a long horizontal flourish extending to the right.

Jonathan R. Shipler

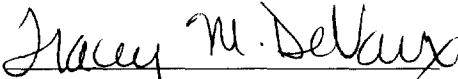
* BY HAND

Albert H. Kramer
Robert F. Aldrich
Dickstein Shapiro Morin
& Oshinsky LLP
2101 L Street, N.W.
Washington, DC 20037-1526

ITS, Inc.*
1919 M Street, NW
Room 246
Washington, DC 20554

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 1997 a copy of the foregoing "Direct Case of Bell Atlantic" was served by the hand on the parties on the attached list.


Tracey M. DeVaux

Competitive Pricing Division
Federal Communications Commission
1919 M Street, NW
Room 518
Washington, DC 20554

ITS, Inc.
1919 M Street, NW
Room 246
Washington, DC 20554